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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,979	11/21/2003	Katherine Glasgow	138303-1	2733
45111	7590	11/08/2005	EXAMINER	
GEAM - LEXAN IP LEGAL ONE PLASTICS AVE. PITTSFIELD, MA 01201-3697			BUTTNER, DAVID J	
			ART UNIT	PAPER NUMBER
			1712	
DATE MAILED: 11/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/718,979

Applicant(s)

GLASGOW ET AL.

Examiner

David Buttner

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19, 22, 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Claim 9 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim does not limit claim because these additives were already required. In fact, "sulfide" is actually broader than claim 1's "diarylsulfide".

Claims 15-17 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Siclovan WO 00/26275 Patent.

Siclovan exemplifies (#75,77) blends of a block polyestercarbonate with PET or PCT. The polyestercarbonate has polyester segments made from terephthalic acid, isophthalic acid and resorcinol. This corresponds to applicant's block polymer. PET and PCT qualify as ionizing radiation stabilizers according to applicant (page 7 line 11-14 of spec) . Inherently, these examples are expected to have the required yellowing index if irradiated because these compositions are identical to that suggested by applicant. Note that claim 17 is not considered to be an irradiated article, but merely point what the yellowing index will be upon being irradiated. Also note spas (page 25 line 18) can be considered a medical device.

Claims 1-19,22 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Siclovan WO 00/26275 in view of Nelson '850 or EP439763.

Siclovan (page 24 line 23) suggests stabilizing additives for his block polymer, but does not name applicant's preferred species.

Nelson teaches 2 methyl- 2,4 pentanediol (col 8 line 22) as an appropriate stabilizer for polyestercarbonates (col 2 line 15). This is hexyleneglycol (page 18 line 21 of applicant's spec). EP439763 teaches other species of stabilizers for polyestercarbonates (abstract, examples).

It would have been obvious to utilize any of Nelson's or EP439763 's stabilizers in Siclovan's block polymer for the expected improved ionizing resistance.

Applicant's arguments filed 8/23/05 have been fully considered but they are not persuasive.

Applicant does not provide any argument why claims 15-17 are not anticipated by the prior art.

Applicant argues that the prior art does not recognize the superior irradiated yellowing characteristics of the claimed resorcinol based polyestercarbonate.

This is not convincing. The claims under examination do not require radiation. Secondly, the Siclovan reference exemplifies the claimed polyestercarbonate. Simply discovering a new property does not render an old material patentable (MPEP 2112).

Applicant argues there is no motivation to combine the additives of Nelson and EP439763 with Siclovan's polyestercarbonate.

The examiner does not agree. Nelson (col 3 line 15; col 4 line 50) and EP439763 (abstract; page 4 line 58) both suggest their additives can be added to polyestercarbonates based on resorcinol.

Applicant argues the yellowing improvement after irradiation is much better than would be expected based on results for polycarbonate.

This is not convincing. The claims are not directed to irradiated articles or methods of irradiation. The improvements do not manifest themselves until being irradiated. Secondly, the closest prior art would appear to be the polyester carbonates used by Nelson and EP439763. Finally, the improvement may not be great enough to overcome the very strong prima facie case of obviousness (MPEP 716.01(d)).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 571-272-1084. The examiner can normally be reached on weekdays from 10 to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAVID J. BUTTNER  
PRIMARY EXAMINER  
David Buttner

11/2/05

